

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Lawrence Crawford,)	
)	
Petitioner,)	
)	
vs.)	Civil Action No.:0:07-3861-TLW-BM
)	
Dr. Andrew Simpson, et al.,)	
)	
Respondent.)	
_____)	

ORDER

On December 10, 2007, the petitioner, Lawrence Crawford, (“petitioner”) proceeding *pro se*, filed an action titled “Motion and or Affidavit for a Writ of Mandamus and Motion to Motion Therefor.” (Doc. #1). The case was automatically referred to Magistrate Judge Bristow Marchant pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02 (B)(2)(c), DSC. On January 4, 2008, the petitioner filed a motion for recusal and motion to compel, seeking recusal of both Judges assigned to this case. (Doc. #11 and #18). This Court, **denies** petitioner’s motions for recusal as the petitioner has failed to show the requirements of 28 U.S.C. § 455 (a) and (b). The Court can find no basis for recusal in the petitioner’s allegations. On March 10, 2008, Magistrate Judge Marchant issued a Report and Recommendation (“the Report”) recommending that the petition for Writ of Mandamus be dismissed without prejudice and without issuance and service of process. (Doc. #26). The petitioner was informed of his right to file objections. (Doc. #26). Petitioner filed objections to the Report on March 20, 2008. (Doc. #28).

This matter now comes before this Court for review of the Report filed by United States Magistrate Judge Bristow Marchant, to whom this case had previously been assigned. (Doc. #26).

In conducting this review, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections...The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a *de novo* determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the Report and Recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case, the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F. Supp. 137, 138 (D.S.C. 1992) (citations omitted). In light of this standard, the Court has reviewed the Report. After careful review of the Report and objections thereto, the Court **ACCEPTS** the Report. (Doc. #26). Therefore, for the reasons articulated by the Magistrate Judge, it is **ORDERED** that the petitioner's complaint be **DISMISSED** *without prejudice* and without issuance of service of process. (Doc. #1).¹

IT IS SO ORDERED.

s/Terry L. Wooten

Terry L. Wooten
United States District Judge

July 9, 2008
Florence, South Carolina

¹The Court notes that the petitioner has filed a subsequent motion (Doc. #31) to stay the proceedings in this case. Finding no basis to grant the motion, this Court **denies** the motion to stay the proceedings.